

**IN THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

IN RE)	CASE NO. 17-17361
)	
RICHARD M. OSBORNE,)	CHAPTER 11
)	
DEBTOR)	JUDGE ARTHUR I. HARRIS

**MOTION FOR ORDER UPON THE DEBTOR, RICHARD M. OSBORNE, TO
APPEAR FOR EXAMINATION PURSUANT TO RULE 2004(a) OF
THE FEDERAL RULES OF BANKRUPTCY PROCEDURE**

Now comes creditor Chicago Title Insurance Company (“Chicago Title” or “Movant”), through undersigned counsel, and hereby states that the Debtor is in possession of additional information relating to assets and potential assets of the bankruptcy estate which has not yet been produced, and which impacts the funds available for creditors. The Debtor should be required to produce such information and documentation.

In support of this Motion, Chicago Title states as follows:

1. This case commenced by the filing of a voluntary petition for relief under Chapter 11 of the Bankruptcy Code on December 17, 2017 (the “Bankruptcy Case”).
2. Movant is a creditor of the Debtor, Richard M. Osborne, and is one of the largest creditors in the within bankruptcy case, with claims in excess of \$6.9 million.
3. Based on prior disclosures made in the Bankruptcy Case, the Debtor supposedly made multiple transfers of shares in various companies months before the filing of his voluntary bankruptcy case. Chicago Title believes the Debtor was advised not to engage in those transfers.

4. In connection with the Debtor's proposed sale of property on Concord-Hambden Road, the Debtor has attempted to allocate a substantial portion of the proceeds of the sale of that property to a non-bankrupt entity without justification.

5. Chicago Title believes the Debtor has liquidated assets of entities that he owns (either wholly owns or has a majority interest in). Chicago Title further believes the Debtor has personal access to funds arising from the liquidation of those assets, which should be a part of the bankruptcy estate for distribution to creditors.

6. At the very least, the Debtor must account for funds received as a result of the sale of substantial assets of entities the Debtor owns or controls. That information is necessary to determine whether such assets are property of the estate, and the respective rights of certain creditors, including Chicago Title, in and to such assets. Such information has not been fully disclosed or provided by the Debtor.

WHEREFORE, the Movant prays that the Debtor, Richard M. Osborne, be ordered to appear for examination on July 20, 2018, or at a date mutually agreed to by the parties, pursuant to the provisions of Rule 2004(a) of the Federal Rules of Bankruptcy Procedure and provide the following documents to the undersigned counsel on or before June 29, 2018:

- (1) Any documentation regarding the transfer of shares in Osborne Inc., Osborne Concrete & Stone Co., Fairport Trucking Company, Grand River Asphalt Co., Osborne Co. Ltd., and Cuyahoga Concrete Co.
- (2) Any documents concerning Debtor's participation in any way in or with Osborne Inc., Osborne Concrete & Stone Co., Fairport Trucking Company, Grand River Asphalt Co., Osborne Co. Ltd., and Cuyahoga Concrete Co., including but not limited to documents relating to any interest the Debtor has in the above-named entities.

- (3) Any information regarding the Center Street Condominiums located at 7472 Presley Avenue and 7474 Presley Avenue, Mentor, Ohio 44060, including documents relating to the Debtor's interest in such property, and the transfer of such property.
- (4) Documentation of the resolution with Mike Mortel related to the Shamrock Property, including Debtor's execution of documents on behalf of Leimco Development Company in connection with that resolution.
- (5) Documentation regarding Lake County Common Pleas Case Number 16CF001547 involving Biondolillo Masonry, including specifically the source of the settlement proceeds paid in that case.
- (6) Documentation regarding the value of the following entities and the assets held or owned by such entities: Junior Properties, Ltd., Orwell-Trumbull Pipeline Co., LLC, Chowder Gas Storage Facility, LLC, Lake Shore Gas Storage, Inc., Heisley Hopkins, Inc., Black Bear Realty, Ltd., and Hamilton Partners, Inc.
- (7) Documentation concerning the financials of all of the entities listed in Debtor's Amended Schedules, including Balance Sheets, Tax Returns for the past four (4) years, lists of Assets owned by each entity, Income Statements, and Profit and Loss Statements.
- (8) Documentation of transfers of any real property that is or was owned by any and all of the entities listed in Debtor's Amended Schedules since Debtor filed bankruptcy on December 17, 2017.
- (9) Documentation concerning Louie V LLC, including but not limited to agreements between the Debtor and that entity, transfers from the Debtor to and/or from that entity, and money and/or anything of value exchanged with that entity.

(10) Documentation concerning and/or relating in any way to current or proposed transactions involving any real property owned by any entity that is listed in Debtor's Amended Schedules.

WHEREFORE, Chicago Title respectfully requests that the above documents be produced at the Office of Michael J. Sikora, III, Esq., Sikora Law LLC, 737 Bolivar Road, Suite 270, Cleveland, Ohio 44115 by no later than June 29, 2018; and that an examination of the Debtor, Richard Osborne, take place on July 20, 2018 at 10:00 a.m. at the above location; and for an order from this Court directing the production of the above-described documents and for a Rule 2004 Examination.

Respectfully submitted,

KOEHLER FITZGERALD LLC

/s/ Robert D. Barr

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of *Motion for an Order Authorizing the Examination of the Debtor, Richard M. Osborne, Pursuant to Rule 2004(a) of the Federal Rules of Bankruptcy Procedure* was served on June 8, 2018, as follows:

Via the Court's Electronic Case Filing System on these entities and individuals who are listed on the Court's Electronic Mail Notice List:

Adam S. Baker, on behalf of Michael E. Osborne, Sr., at abakerlaw@sbcglobal.net

Robert D. Barr, Attorney for Chicago Title Insurance Company, at rbarr@koehler.law

Michael J. Sikora, III, Attorney for Chicago Title Insurance Company, at msikora@sikoralaw.com

Michael S. Tucker, Attorney for Citizens Bank, N.A., at mtucker@ulmer.com

Christopher J. Klym, Attorney for Ohio Department of Taxation, at bk@hhkwlaw.com

Matthew H. Matheney, Attorney for First National Bank of Pennsylvania, at mmatheney@bdblawn.com

Timothy P. Palmer, Attorney for The Huntington National Bank, at timothy.palmer@bipc.com

John J. Rutter, Attorney for Mentor Lumber & Supply Co., at jrutter@ralawn.com

Frederic P. Schwieg, Attorney for Richard M. Osborne, at fschwieg@schwieglawn.com

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David T. Brady, Attorney for Tax Ease Ohio, LLC, at DBrady@Sandhu-Law.com

Andrew M. Tomko, Attorney for Tax Ease Ohio, LLC, at atomko@sandhu-law.com

AND, by regular U.S. mail, postage prepaid, to the following:

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Waite Hill, Ohio 44094

/s/ Robert D. Barr
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Co-Counsel for Chicago Title Insurance Company